HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.987 of 2006 (MS)

United India Insurance Company Ltd
Through its Divisional Manager,
40 Adat Bazar, Sharanpur Chowk,
District Dehradun. .....Petitioners

Versus

1. Workmen's Compensation Commissioner/Additional District Magistrate, Dehradun
2. Smt. Kanchan Singh wife of Sri K.B. Singh, resident of Sugar Mill Colony, Doiwala, District Dehradun
3. Smt. Chandra kala Devi wife of late Jagat Narayan Singh
4. Sir Shilendra Sing son of late Jagar Narayan Singh
5. Km. Meera Singh d/o late Jagat Narayan Singh
   Respondents no.4 and 5 though guardian mother Smt. Chandra Kala Devi, all residents of Ullaganj, Post Khas, District Rail Bareilly, U.P. .....Respondents

Sri Pankaj Purohit, Advocate for the petitioner
Standing Counsel for the respondent no.1.

Dated: 01.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Pankaj Purohit counsel for the petitioner and Standing Counsel for respondent no.1.

By the present writ petition, the petitioner had prayed for a writ of certiorari quashing the order dated 3.4.2006 passed by the Workmen's Compensation Commissioner, Dehradun.

Briefly stated a claim petition was filed before the Workmen's Compensation, Commissioner, Dehradun by Smt. Kanchan Singh. On 8.2.2000 the claim petition was ordered to be proceeded ex parte against the petitioner. On 22.10.2001 a written statement was filed by the petitioner but since at that time the petitioner was not aware of the ex parte proceedings against him, no application was moved to set aside the ex pate hearing. Subsequently the petitioner moved an application on 9.7.2002 for setting aside the ex parte hearing and the said application was pending. The Workmen's Compensation Commissioner finally decided the claim petition by ex parte judgment and award dated 17.10.2002. The petitioner moved an application under Order 9 Rule 13 C.P.C. for setting aside the ex parte award on 8.01.2003.

A perusal of the award shows that no opportunity was given to the petitioner for hearing and the written statement filed by the petitioner was not taken on record on the ground that the case proceeded ex parte. Thereafter the petitioner has filed application for setting aside the ex parte order which was rejected. The petitioner has admittedly deposited the entire amount of award and as such it will be feasible in the interest of justice that the claim petition may be heard after taking the written statement on record and after giving opportunity to the petitioner to adduce evidence.

In view of above, a writ of certiorari is issued quashing the order dated 3.4.2006 passed by the respondent no.1 and the case is sent back to the Workmen's compensation Commissioner, Dehradun for deciding the application for setting aside the ex parte order moved by the petitioner a fresh and thereafter decide the claim petition according to law.

Accordingly, writ petition is disposed. No order as to costs.

(Rajesh Tandon, J.)

Dated:01.08.2006

*Dhyani